

KAREN P. HEWITT  
United States Attorney

TOM STAHL, California State Bar No. 78291  
Assistant United States Attorney  
Chief, Civil Division

LAUREN M. CASTALDI  
Trial Attorneys, Tax Division  
U.S. Department of Justice  
P.O. Box 683, Ben Franklin Station  
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Telephone: (202) 514-9668  
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E-mail: [lauren.m.castaldi@usdoj.gov](mailto:lauren.m.castaldi@usdoj.gov)

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

IN RE:

VACANT LAND LOCATED IN SAN DIEGO  
COUNTY APNS 279-150-22 AND 280-140-10

Case No. **08 CV 0455 W BLM**

UNITED STATES' NOTICE OF  
REMOVAL

Removed from San Diego County,  
California Superior Court  
Case No. 37-2007-00080647-CU-PT-NC

The United States of America, by and through its undersigned counsel, hereby removes the above-captioned action to the United States District Court for the Southern District of California, pursuant to 28 U.S.C. § 1444. The basis for the removal is as follows:

1. On December 4, 2007, Action Foreclosure Services, Inc. filed a civil action designated as Notice of Petition to Superior Court to Deposit Surplus Funds, in the Superior Court of the State of California, San Diego County.

2. This action is one that may be removed pursuant to 28 U.S.C. § 1444, in that the United States may remove an action brought against it that affects property on which the United States has a lien.

FILED

2008 MAR 11 PM 2:49

CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY KNH DEPUTY

1           3.     Although the United States had an interest in this action by virtue of federal tax liens, it  
2 was not properly served in this matter. Actions affecting property on which the United States has or  
3 claims a lien are governed by 28 U.S.C. § 2410. Specifically, § 2410(b) provides that, in actions brought  
4 in State courts, service upon the United States shall be made by serving the United States attorney for the  
5 district in which the action is brought and by sending copies of the pleadings to the Attorney General of  
6 the United States in Washington, D.C. Various divisions of the Internal Revenue Service appear to have  
7 been served, but neither the United States Attorney for the Southern District of California nor the  
8 Attorney General were properly served in this action.

9           4.     As the United States has not been properly served in accordance with the Federal Rules of  
10 Civil Procedure, the thirty-day period within which a notice of removal must be filed has not  
11 commenced. In *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, the United States Supreme  
12 Court held that service of both the complaint and the summons is required to begin the running of  
13 the removal period. 526 U.S. 344 (1999).

14           5.     By filing this notice, the United States does not waive any defenses listed in Federal Rule  
15 of Civil Procedure 12.

16           6.     This action may be removed to this Court without bond by virtue of the provisions of 28  
17 U.S.C. Section 2408(a) because the United States has initiated this removal.

18           7.     A copy of this notice shall be promptly filed with the San Diego County Superior Court  
19 and served upon all parties.

20           8.     A copy of all pleadings received by the United States is attached hereto.

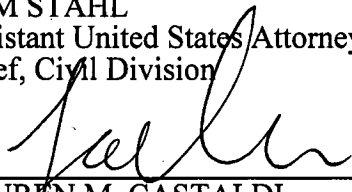
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1 DATED this 7th day of March, 2008.

2  
3 KAREN P. HEWITT  
United States Attorney

4 TOM STAHL  
5 Assistant United States Attorney  
Chief, Civil Division

6  
7   
8 LAUREN M. CASTALDI  
9 Trial Attorneys, Tax Division  
U.S. Department of Justice  
Attorneys for the United States of America

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United States Attorney

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Chief, Civil Division

4 LAUREN M. CASTALDI  
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8 E-mail: [lauren.m.castaldi@usdoj.gov](mailto:lauren.m.castaldi@usdoj.gov)

9 Attorneys for the United States of America

10  
11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

13 IN RE:

14 VACANT LAND LOCATED IN SAN DIEGO )  
15 COUNTY APNS 279-150-22 AND 280-140-10 )

Case No.

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CERTIFICATE OF SERVICE

19 I HEREBY CERTIFY that service of the UNITED STATES' NOTICE OF REMOVAL, has been  
20 made this 7th day of March, 2008, by United States' Mail to:

21  
22 Charles D. Nachad  
The Law Offices of Charles D. Nachad  
23 451 South Escondido Blvd.  
Escondido, CA 92025  
24 Counsel for Sherrill Johnston

Denny Johnston  
c/o Taylor Pipeline, Inc.  
2625 Las Palmas Avenue  
Escondido, CA 92025

25 Employment Development Department  
800 Capital Mall MIC 92 H  
26 Sacramento, CA 94230

Denny Johnston  
44913 Silver Rose Street  
Temecula, CA 92592-5541

1 Derek Spiker  
1855 Rainbow Valley Blvd  
2 Fallbrook, CA 92028

3 Derek Spiker  
19773 Ramona Trails Drive  
4 Ramona, CA 92065

5 Michael Spiker  
1855 Rainbow Valley Blvd  
6 Fallbrook, CA 92028

7 Nancy Spiker  
1855 Rainbow Valley Blvd  
8 Fallbrook, CA 92028

9 Nicole Spiker  
19773 Ramona Trails Drive  
10 Ramona, CA 92065

11 Nicole Spiker  
c/o THREE D ELECTRIC  
12 1855 Rainbow Valley Blvd  
Fallbrook, CA 92028

13 Denny Johnston  
14 2625 Las Palmas Avenue  
Escondido, CA 92025

15 Derek Spiker  
16 2625 Las Palmas Avenue  
Escondido, CA 92025

17 Nicole Spiker  
18 2625 Las Palmas Avenue  
Escondido, CA 92025

Michael Spiker  
2625 Las Palmas Avenue  
Escondido, CA 92025

Nancy Spiker  
2625 Las Palmas Avenue  
Escondido, CA 92025

Denny Johnston  
1855 Rainbow Valley Blvd.  
Fallbrook, CA 92028


Nicole Spiker  
1855 Rainbow Valley Blvd.  
Fallbrook, CA 92028

TARGET NATIONAL BANK  
c/o Eskanos & Adler  
Donald R. Stebbins/Janet L. Brown  
Kurtiss A. Jacobs/Jerome M. Yalon  
218950/84204  
2325 Clayton Road  
Concord, CA 94520

STATE OF CALIFORNIA  
Employment Development Department  
Lien Group, MIC 92G  
P.O. Box 826880  
Sacramento, CA 94280-0001

INDEPENDENT ELECTRIC SUPPLY, INC.  
c/o CRF Solutions  
P.O. Box 1389  
Simi Valley, CA 93065

M and D ELECTRIC INC.  
A California Corporation  
19773 Ramona Trails  
Ramona, CA 92065

  
LAUREN M. CASTALDI  
Trial Attorney, Tax Division  
U.S. Department of Justice

Attorney for the United States of America

1-57  
service package

1 JOHN D. DUNCAN (CA SBN 179560)  
2 PETER J. SALMON (CA SBN 174386)  
3 LAUREL I. HANDLEY (CA SBN 231249)  
4 PITE DUNCAN, LLP  
5 525 E. Main Street  
6 P.O. Box 12289  
7 El Cajon, CA 92022-2289  
8 Telephone: (619) 590-1300  
9 Facsimile: (619) 590-1385

10 Attorneys for Petitioner Action Foreclosure Services, Inc.

11  
12 SUPERIOR COURT OF CALIFORNIA  
13 COUNTY OF SAN DIEGO - NORTH COUNTY

14 IN RE:

15 VACANT LAND LOCATED IN SAN  
16 DIEGO COUNTY APNS 279-150-22 AND  
17 280-140-10

Case No.:

Unlimited Jurisdiction

NOTICE OF PETITION TO SUPERIOR  
COURT TO DEPOSIT SURPLUS FUNDS

[Amount Demanded Exceeds \$25,000.00]

18 To all interested persons, please take notice that Action Foreclosure Services, Inc., is making  
19 an application to the Superior Court of California, County of San Diego - North County, located  
20 at 325 South Melrose, Vista, CA 92083, seeking an order to the Clerk of the Court to deposit surplus  
21 funds in the amount of \$76,142.61 with the County Treasurer. All potential claimants are hereby  
22 notified that all claims for the funds must be filed with said court within thirty (30) days from the  
23 date of this Notice as required by California Civil Code section 2924j(d).

24 Upon receipt of conformed copies from the court, Pite Duncan, LLP, will send a Notice of  
25 Case Number Assignment.

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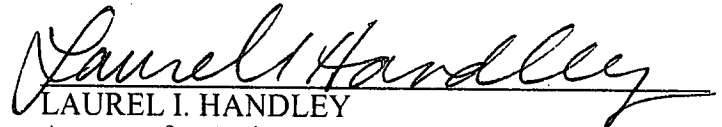
///

///

1 You will be notified by the Clerk of the Superior Court as to any future hearing dates and  
2 where to submit any claim for funds. The phone number of the court is (760) 726-9595.  
3

4 Dated: 12/4/07

PITE DUNCAN, LLP

5  
6   
7 LAUREL I. HANDLEY  
8 Attorney for Action Foreclosure Services, Inc.

9 1320873.wpd  
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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO - NORTH COUNTY

IN RE:

VACANT LAND LOCATED IN SAN  
DIEGO COUNTY APNS 279-150-22 AND  
280-140-10

Case No.:

UnLimited Jurisdiction

ORDER TO DEPOSIT SURPLUS FUNDS

[Amount Demanded Exceeds \$25,000.00]

The Court, having reviewed the Petition filed herein and upon the application of the Trustee to allow the Clerk of the Court to deposit funds with the County Treasurer,

IT IS ORDERED THAT:

The Clerk shall receive the sum of \$76,142.61, made payable to Superior Court of California, and shall deposit said amount with the County Treasurer, minus any reasonable fee that the Clerk may charge;

IT IS FURTHER ORDERED THAT the Petitioner, Action Foreclosure Services, Inc., as Trustee, is hereby discharged of further responsibility for the disbursement of sale proceeds pursuant to Civil Code section 2924j(c) and is not required to make further appearances in this matter; and

IT IS FURTHER ORDERED THAT within 90 days after deposit, the Court shall consider all claims filed at least 15 days before the date on which the hearing is scheduled by the Court pursuant to Civil Code section 2924j(d). The Clerk shall schedule and serve written notice of the hearing by first-class mail on all claimants identified in Petitioner's declaration at the addresses specified therein. The Petitioner has supplied the Court with pre-addressed envelopes for the Clerk's



1 convenience.

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3 Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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1 JOHN D. DUNCAN (CA SBN 179560)  
2 PETER J. SALMON (CA SBN 174386)  
3 LAUREL I. HANDLEY (CA SBN 231249)  
4 PITE DUNCAN, LLP  
5 525 E. Main Street  
6 P.O. Box 12289  
7 El Cajon, CA 92022-2289  
8 Telephone: (619) 590-1300  
9 Facsimile: (619) 590-1385

10 Attorneys for Petitioner Action Foreclosure Services, Inc.

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO - NORTH COUNTY

IN RE: VACANT LAND LOCATED IN SAN  
DIEGO COUNTY APNS 279-150-22 AND  
280-140-10

Case No.: 37-2007-00080647-CU-PT-NC

UnLimited Jurisdiction

NOTICE OF ORDER AND OF NO  
FURTHER APPEARANCES

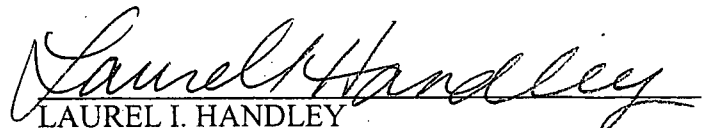
[Amount Demanded Exceeds \$25,000.00]

TO ALL INTERESTED PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on December 27, 2007, the Superior Court of California,  
County of San Diego - North County, Case No.: 37-2007-00080647-CU-PT-NC, executed an Order  
to deposit funds that discharged Petitioner Action Foreclosure Services, Inc. of further responsibility  
to make appearances in this matter and disburse the surplus sale proceeds. (Order attached hereto  
as **Exhibit A.**) In accordance with this Order, Petitioner will not make further appearances in this  
action.

Dated: 1/17/08

PITE DUNCAN, LLP

  
LAUREL I. HANDLEY  
Attorney for Petitioner Action Foreclosure Services,  
Inc.

1481934.wpd

Exhibit A

FILED  
Clerk of the Superior Court

DEC 27 2007

By: Josie Castillo

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO - NORTH COUNTY

IN RE:

VACANT LAND LOCATED IN SAN  
DIEGO COUNTY APNS 279-150-22 AND  
280-140-10

Case No.: 37-2007-00080647-CU-PT-NC

UnLimited Jurisdiction

ORDER TO DEPOSIT SURPLUS FUNDS

[Amount Demanded Exceeds \$25,000.00]

The Court, having reviewed the Petition filed herein and upon the application of the Trustee to allow the Clerk of the Court to deposit funds with the County Treasurer,

IT IS ORDERED THAT:

The Clerk shall receive the sum of \$76,142.61, made payable to Superior Court of California, and shall deposit said amount with the County Treasurer, minus any reasonable fee that the Clerk may charge;

IT IS FURTHER ORDERED THAT the Petitioner, Action Foreclosure Services, Inc., as Trustee, is hereby discharged of further responsibility for the disbursement of sale proceeds pursuant to Civil Code section 2924j(c) and is not required to make further appearances in this matter; and

IT IS FURTHER ORDERED THAT within 90 days after deposit, the Court shall consider all claims filed at least 15 days before the date on which the hearing is scheduled by the Court pursuant to Civil Code section 2924j(d). The Clerk shall schedule and serve written notice of the hearing by first-class mail on all claimants identified in Petitioner's declaration at the addresses specified therein. The Petitioner has supplied the Court with pre-addressed envelopes for the Clerk's

1 convenience.

2

3 Dated: DEC 27 2007.

3 / MARTIN STAVEN  
JUDGE OF THE SUPERIOR COURT

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<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>	
STREET ADDRESS: 325 S. Melrose	
MAILING ADDRESS: 325 S. Melrose	
CITY AND ZIP CODE: Vista, CA 92081	
BRANCH NAME: North County	
TELEPHONE NUMBER: (760) 806-6167	
PLAINTIFF(S) / PETITIONER(S): Action Foreclosure Services, Inc.	
DEFENDANT(S) / RESPONDENT(S):	
PETITION OF ACTION FORECLOSURE SERVICES, INC.	
<b>NOTICE OF CASE ASSIGNMENT</b>	CASE NUMBER: 37-2007-00080647-CU-PT-NC

Judge:

Department: N-04

COMPLAINT/PETITION FILED: 12/13/2007

**CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW**

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

**TIME STANDARDS:** The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

**COMPLAINTS:** Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

**DEFENDANT'S APPEARANCE:** Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

**DEFAULT:** If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

FILED  
Clerk of the Superior Court

DEC 27 2007

By: Josie Castillo

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO - NORTH COUNTY

IN RE:

VACANT LAND LOCATED IN SAN  
DIEGO COUNTY APNS 279-150-22 AND  
280-140-10

Case No.: 37-2007-00080647-CU-PT-NC

UnLimited Jurisdiction

NOTICE OF HEARING SET BY THE  
CLERK OF THE COURT PURSUANT TO  
CIVIL CODE SECTION 2924j(d)

To all interested persons, please take notice that SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO - NORTH COUNTY, has set a hearing to determine disbursement of  
surplus funds on deposit, that will be heard on 3-21-08 at 1:30pm  
12 in Department 12 in Superior Court of California, COUNTY OF SAN DIEGO -  
NORTH COUNTY, located at 325 South Melrose, Vista, CA 92083.

All potential claimants shall file and serve their claim to the surplus funds within 15 days of  
the hearing pursuant to Civil Code section 2924j(d), which provides in pertinent part:

Within 90 days after deposit with the clerk, the court shall consider all claims filed  
at least 15 days before the date on which the hearing is scheduled by the court, the  
clerk shall serve written notice of the hearing by first-class mail on all claimants  
identified in the trustee's declaration at the addresses specified therein.

Dated: DEC 27 2007

J.C. CASTILLO  
CLERK OF THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>LAUREL I. HANDLEY (CASBN 231249)</b> PITE DUNCAN, LLP 525 E. MAIN STREET P.O. BOX 12289 EL CAJON, CA 92020 TELEPHONE NO.: (619) 590-1300 FAX NO.: (619) 590-1385 ATTORNEY FOR (Name): <b>ACTION FORECLOSURE SERVICES, INC.</b>		FOR COURT USE ONLY  <div style="text-align: center; font-size: 1.2em; font-weight: bold;">RECEIVED</div> <div style="text-align: center; font-size: 1.2em;">MAR 13 2007</div> <div style="font-size: 1.5em; transform: rotate(-15deg); opacity: 0.5; position: absolute; top: 50px; left: 50px;">Original package</div>																	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 325 SOUTH MELROSE MAILING ADDRESS: CITY AND ZIP CODE: VISTA, CA 92083 BRANCH NAME: NORTH COUNTY																			
CASE NAME: VACANT LAND LOCATED IN SAN DIEGO COUNTY APNS 279-150-22 AND 280-140-10																			
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center; font-weight: bold;">CIVIL CASE COVER SHEET</td> <td colspan="2" style="text-align: center; font-weight: bold;">Complex Case Designation</td> <td colspan="2" style="padding: 5px;">CASE NUMBER:</td> </tr> <tr> <td style="width: 33%; vertical-align: top;"> <input checked="" type="checkbox"/> <b>Unlimited</b>            (Amount demanded exceeds \$25,000)         </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> <b>Limited</b>            (Amount demanded is \$25,000 or less)         </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> <b>Counter</b> </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> <b>Joinder</b> </td> <td colspan="2" style="padding: 5px;">JUDGE:</td> </tr> <tr> <td colspan="4" style="text-align: center; font-size: 0.8em;">           Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)         </td> <td colspan="2" style="padding: 5px;">DEPT:</td> </tr> </table>			CIVIL CASE COVER SHEET		Complex Case Designation		CASE NUMBER:		<input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<input type="checkbox"/> <b>Counter</b>	<input type="checkbox"/> <b>Joinder</b>	JUDGE:		Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)				DEPT:
CIVIL CASE COVER SHEET		Complex Case Designation		CASE NUMBER:															
<input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<input type="checkbox"/> <b>Counter</b>	<input type="checkbox"/> <b>Joinder</b>	JUDGE:															
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)				DEPT:															

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input checked="" type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 1

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 12/4, 2007

LAUREL I. HANDLEY (CASBN 231249)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2



## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

## Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
  - Medical Malpractice—Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress

## Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

## Employment

- Wrongful Termination (36)
- Other Employment (15)

## Contract

- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease
    - Contract (*not unlawful detainer or wrongful eviction*)
  - Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

## Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

## Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

## Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ—Administrative Mandamus
  - Writ—Mandamus on Limited Court Case Matter
  - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal—Labor Commissioner Appeals

## Provisionally Complex Civil Litigation (Cal.

## Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

## Enforcement of Judgment

- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment (*non-domestic relations*)
  - Sister State Judgment
  - Administrative Agency Award (*not unpaid taxes*)
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
- Other Enforcement of Judgment Case

## Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
  - Declaratory Relief Only
  - Injunctive Relief Only (*non-harassment*)
  - Mechanics Lien
  - Other Commercial Complaint Case (*non-tort/non-complex*)
  - Other Civil Complaint (*non-tort/non-complex*)

## Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief from Late Claim
  - Other Civil Petition

MC-095

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): LAUREL I. HANDLEY (CASBN 231249) PITE DUNCAN, LLP 525 E. MAIN STREET P.O. BOX 12289 EL CAJON, CA 92020 TELEPHONE NO.: (619) 590-1300 FAX NO. (Optional): (619) 590-1385 E-MAIL ADDRESS (Optional): LHANDLEY@PITEDUNCAN.COM ATTORNEY FOR (Name): ACTION FORECLOSURE SERVICES, INC.	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 325 SOUTH MELROSE MAILING ADDRESS: CITY AND ZIP CODE: VISTA, CA 92083 BRANCH NAME: NORTH COUNTY	
IN RE (ADDRESS OF REAL PROPERTY): VACANT LAND LOCATED IN SAN DIEGO COUNTY APNS 279-150-22 AND 280-140-10	
PETITION AND DECLARATION REGARDING UNRESOLVED CLAIMS AND DEPOSIT OF UNDISTRIBUTED SURPLUS PROCEEDS OF TRUSTEE'S SALE	
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount deposited <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)	CASE NUMBER:

1. Petitioner (name): ACTION FORECLOSURE SERVICES, INC. is the trustee under the Deed of Trust described in items 2 and 3 below.

#### The Deed of Trust

2. The Deed of Trust encumbered the real property commonly known as (describe): ASSESSORS PARCEL NUMBERS 279-150-22 AND 280-140-10.

(the "property") and legally described ☒ in Attachment 2 ☐ as follows:

#### 3. The Deed of Trust was

- a. Executed by (name): DENNY AND SHERILL JOHNSTON, ET AL as trustor.
- b. Executed on (date): APRIL 24, 2002
- c. Recorded:
- (1) Date: APRIL 26, 2002
- (2) County: SAN DIEGO
- (3) Instrument number: 2002-0355530

IN RE: VACANT LAND LOCATED IN SAN DIEGO COUNTY APNS 279-150-22 AND 280-140-10

CASE NUMBER:

**The Trustee's Sale, Surplus Proceeds, and Notice to Potential Claimants**

4. The property was the subject of a trustee's sale that was held on (date): MAY 4, 2007
5. A trustee's sale guarantee was prepared for the trustee's sale. (A copy of the trustee's sale guarantee must be attached as Attachment 5.)
6. The total sale price of the property was: \$ 302,100.00
7. After payment of the amounts required by Civil Code section 2924k(a)(1)-(2), there were surplus proceeds from the trustee's sale available to potential claimants in the total amount of: \$ 78,137.61
8. Within 30 days after the trustee's sale, the trustee sent written notice under Civil Code section 2924j(a) to all persons with a recorded interest in the real property as of the date immediately prior to the trustee's sale who would be entitled to notice. The names and addresses of all persons sent notice under Civil Code section 2924j(a) are as follows:

☒ Continued on Attachment 8.

**The Claims**

9. The trustee has received a total of (specify number): 3 written claims from potential claimants.
10. The trustee has exercised due diligence to determine the priority of the written claims received by the trustee to the trustee's sale surplus proceeds from the persons identified in item 8 to whom notice was sent.
11. The trustee submits this declaration under Civil Code section 2924j(c) for the following reason:
  - a. ☐ After due diligence, the trustee is unable to determine the priority of the written claims received by the trustee to the trustee's sale surplus proceeds. (If this reason applies, describe the problem of determining priorities in Attachment 11a.)
  - b. ☒ The trustee has determined that there is a conflict between potential claimants to the surplus proceeds. (If this reason applies, identify the claimants and describe the conflict in Attachment 11b.)
12. The trustee provides the following additional information relevant to the identity, location, priority of potential claimants, and the conflict of claims:

CHARLES D. NACHAND  
THE LAW OFFICES OF CHARLES D. NACHAND  
451 SOUTH ESCONDIDO BOULEVARD  
ESCONDIDO, CA 92025-4813

EMPLOYMENT DEVELOPMENT DEPARTMENT  
800 CAPITOL MALL MIC 92 H  
SACRAMENTO, CA 94230

☐ Continued on Attachment 12.

**Notice of Intent to Deposit Funds and Proof of Service**

13. The trustee has provided written notice to all persons with a recorded interest in the property who would be entitled to notice under Civil Code section 2924b(b)-(c). The notice includes the following information:
  - a. The trustee intends to deposit funds from the trustee's sale with the clerk of the court.
  - b. A claim for funds must be filed with the court within 30 days from the date of notice.
  - c. The address of the court in which the funds are to be deposited and a telephone number for obtaining further information.

(Proof of Service of the notice on all persons entitled to notice under Civil Code section 2924j(d) must be attached to this declaration as Attachment 13.)

IN RE: VACANT LAND LOCATED IN SAN DIEGO COUNTY APNS 279-150-22 AND 280-140-10

CASE NUMBER:

### Deposit

#### 14. Distributions

The trustee has distributed the total amount of: \$ 0.00

Name of claimant:

to the following claimants based on their written claims:

Amount:

0.00  
0.00  
0.00  
0.00  
0.00  
0.00  
0.00

☐ Continued on Attachment 14.

#### 15. Trustee's Fees and Expenses

The trustee has incurred reasonable fees and expenses totaling: \$ 1,635.00. These fees and expenses are recoverable under Civil Code section 2924k(a)(1) and (b) and are described ☐ in Attachment 15 ☒ as follows (specify):

TRUSTEE'S FEES AND COSTS.....\$125.00  
ATTORNEY'S FEES AND COSTS.....\$1,510.00

#### 16. Deposit

The amount to be deposited is calculated as follows:

a. Trustee's sale proceeds .....	\$	302,100.00
b. Debt to foreclosing creditor .....	\$	223,962.39
c. Available surplus proceeds (a minus b) .....	\$	78,137.61
d. Claims paid by trustee (from item 14) .....	\$	0.00
e. Trustee's fees and expenses (from item 15) .....	\$	1,635.00
f. Remaining surplus proceeds (c minus (d plus e)) .....	\$	76,502.61
g. Filing fee .....	\$	360.00
h. Deposit (f minus g) .....	\$	76,142.61

(If the trustee is represented by an attorney, the attorney's signature follows):

Date: 12/4, 2007

LAUREL I. HANDLEY

(TYPE OR PRINT NAME OF ATTORNEY)



(SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: , 2007

(TYPE OR PRINT NAME OF TRUSTEE)

(SIGNATURE OF TRUSTEE)

IN RE: VACANT LAND LOCATED IN SAN DIEGO COUNTY APNS 279-150-22 AND 280-140-10

CASE NUMBER:

### Deposit

#### 14. Distributions

The trustee has distributed the total amount of: \$ 0.00

Name of claimant:

to the following claimants based on their written claims:

Amount:

0.00  
0.00  
0.00  
0.00  
0.00  
0.00  
0.00

☐ Continued on Attachment 14.

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c. Available surplus proceeds (a minus b) .....	\$	78,137.61
d. Claims paid by trustee (from item 14) .....	\$	0.00
e. Trustee's fees and expenses (from item 15) .....	\$	1,635.00
f. Remaining surplus proceeds (c minus (d plus e)) .....	\$	76,502.61
g. Filing fee .....	\$	360.00
h. Deposit (f minus g) .....	\$	76,142.61

(If the trustee is represented by an attorney, the attorney's signature follows):

Date: , 2007

LAUREL I. HANDLEY

(TYPE OR PRINT NAME OF ATTORNEY)

(SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: December 7 , 2007

Action Foreclosure Services, Inc.

(TYPE OR PRINT NAME OF TRUSTEE)

by: James M. Allen, Jr., Chief Financial Officer

(SIGNATURE OF TRUSTEE)

**ATTACHMENT 2**

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

**EXHIBIT "A"**  
**(LEGAL DESCRIPTION)**

PARCEL 1:

THE NORTHEAST OF THE SOUTHEAST QUARTER AND THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 13 SOUTH RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF.

PARCEL 2:

THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF.

NOTE: THE LATEST TAX BILL FROM THE SAN DIEGO COUNTY TAX COLLECTOR SHOWS THE SITUS ADDRESS OF SAID LAND AS VACANT LAND.

ASSESSORS PARCEL NUMBER: 279-150-22

## **ATTACHMENT 5**



CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

## TRUSTEE'S SALE GUARANTEE

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE.

### North American Title Insurance

A CORPORATION, HEREIN CALLED THE COMPANY,

GUARANTEES

AS SHOWN IN ITEM 1 OF SCHEDULE A, HEREIN CALLED THE ASSURED, AGAINST LOSS NOT EXCEEDING THE LIABILITY AMOUNT STATED ABOVE WHICH THE ASSURED SHALL SUSTAIN BY REASON OF ANY INCORRECTNESS IN THE ASSURANCE WHICH THE COMPANY HEREBY GIVES THAT, ACCORDING TO THE PUBLIC RECORDS, ON THE DATE STATED BELOW,

1. THE TITLE TO THE HEREIN DESCRIBED ESTATE OR INTEREST WAS VESTED IN THE VESTEE NAMED, SUBJECT TO THE MATTERS SHOWN AS EXCEPTIONS HEREIN, WHICH EXCEPTIONS ARE NOT NECESSARILY SHOWN IN THE ORDER OF THEIR PRIORITY.
2. THE NAMES AND ADDRESSES OF PERSONS WHO HAVE RECORDED REQUESTS, AS PROVIDED BY SECTION 2924B(A) AND (D) OF THE CALIFORNIA CIVIL CODE, FOR A COPY OF NOTICE OF DEFAULT AND A COPY OF NOTICE OF SALE ARE AS SHOWN HEREIN;
3. THE NAMES AND ADDRESSES OF ADDITIONAL PERSONS, WHO, AS PROVIDED BY SECTION 2924B(C)(1) AND (2) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF DEFAULT AND A COPY OF NOTICE OF SALE ARE AS SHOWN HEREIN;
4. THE NAMES AND ADDRESSES OF STATE TAXING AGENCIES WHICH, AS PROVIDED BY SECTION 2924B(C)(3) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF SALE, ARE AS SHOWN HEREIN, AND;
5. THE ADDRESSES OF THE INTERNAL REVENUE SERVICE WHICH, AS PROVIDED BY SECTION 2924B(C)(4) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF SALE, ARE AS SHOWN HEREIN, AND;
6. THE HEREIN DESCRIBED LAND IS LOCATED IN THE CITY OR JUDICIAL DISTRICT STATED HEREIN AND, IF DESIGNATED, THE NEWSPAPER OR NEWSPAPERS LISTED HEREIN QUALIFY FOR PUBLICATION OF NOTICE PURSUANT TO SECTION 2924F OF THE CALIFORNIA CIVIL CODE.

DATED: OCTOBER 18, 2006

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

**SCHEDULE A**

YOUR REFERENCE: 2006623

DATED: OCTOBER 18, 2006 AT 8:00 A. M.

LIABILITY: \$200,000.00

PREMIUM: \$672.00

1. NAME OF ASSURED:

TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY

BENEFICIARY: ROBERT A. DAVIS AND MARY CLAIRE DAVIS, AS TRUSTEE, OR THE SUCCESSOR TRUSTEE, OF THE DAVIS FAMILY TRUST DATED MAY 29, 2003

2. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS GUARANTEE IS:

A FEE

3. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

DENNY JOHNSTON AND SHERILL JOHNSTON, HUSBAND AND WIFE, AS JOINT TENANTS AS TO AN UNDIVIDED 1/3 INTEREST AND DEREK SPIKER AND NICOLE SPIKER, HUSBAND AND WIFE, AS JOINT TENANTS AS TO AN UNDIVIDED 1/3 INTEREST AND MICHAEL SPIKER AND NANCY SPIKER, HUSBAND AND WIFE, AS JOINT TENANTS AS TO AN UNDIVIDED 1/3 INTEREST, AS TENANTS IN COMMON

4. THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO, AND IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

CLTA GUARANTEE  
FORM NO 6282ORDER NO. 4379835-65  
GUARANTEE NO. 201861**SCHEDULE B**

## EXCEPTIONS:

1. GENERAL AND SPECIAL PROPERTY TAXES, AND ANY ASSESSMENTS COLLECTED WITH TAXES, INCLUDING UTILITY ASSESSMENTS, FOR THE FISCAL YEAR 2006/2007.

TOTAL AMOUNT: \$1,324.08  
 FIRST INSTALLMENT: \$662.04  
 PENALTY: \$66.20 (AFTER DECEMBER 10, 2006)  
 SECOND INSTALLMENT: \$662.04  
 PENALTY: \$76.20 (AFTER APRIL 10, 2007)  
 EXEMPTION: \$NONE  
 CODE NO.: 65023  
 PARCEL NO.: 279-150-22

- 1A. SAID PROPERTY HAS BEEN DECLARED TAX-DEFAULTED FOR NON-PAYMENT OF DELINQUENT TAXES FOR THE FISCAL YEAR 2004-2006.

AMOUNT TO REDEEM PRIOR TO OCTOBER 31, 2006: \$2,378.31  
 AMOUNT TO REDEEM PRIOR TO NOVEMBER 30, 2006: \$2,407.15

PARCEL NO.: 279-150-22

THE ABOVE MATTER AFFECTS THE HEREIN DESCRIBED PROPERTY AND OTHER PROPERTY.

- 1B. GENERAL AND SPECIAL PROPERTY TAXES, AND ANY ASSESSMENTS COLLECTED WITH TAXES, INCLUDING UTILITY ASSESSMENTS, FOR THE FISCAL YEAR 2006/2007.

TOTAL AMOUNT: \$1,764.74  
 FIRST INSTALLMENT: \$882.37  
 PENALTY: \$88.23 (AFTER DECEMBER 10, 2006)  
 SECOND INSTALLMENT: \$882.37  
 PENALTY: \$98.23 (AFTER APRIL 10, 2007)  
 EXEMPTION: \$NONE  
 CODE NO.: 65023  
 PARCEL NO.: 280-140-10

- 1C. SAID PROPERTY HAS BEEN DECLARED TAX-DEFAULTED FOR NON-PAYMENT OF DELINQUENT TAXES FOR THE FISCAL YEAR 2004-2006.

AMOUNT TO REDEEM PRIOR TO OCTOBER 31, 2006: \$3,158.16  
 AMOUNT TO REDEEM PRIOR TO NOVEMBER 30, 2006: \$3,196.60

PARCEL NO.: 280-140-10

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

- 1D. THE LIEN OF SUPPLEMENTAL TAXES, IF ANY, ASSESSED PURSUANT TO THE PROVISIONS OF CHAPTER 3.5 (COMMENCING WITH SECTION 75) OF THE REVENUE AND TAXATION CODE OF THE STATE OF CALIFORNIA.
2. THE FACT THAT THE PUBLIC ROAD DOES NOT DISCLOSE THAT THE OWNERSHIP OF SAID LAND INCLUDES RIGHTS OF ACCESS TO OR FROM ANY PUBLIC STREET. NOTWITHSTANDING THE INSURING CLAUSES OF THE POLICY, THE COMPANY DOES NOT INSURE AGAINST LOSS OR DAMAGE BY REASON OF A LACK OF A RIGHT OF ACCESS TO AND FROM THE LAND.

3. A DEED OF TRUST TO SECURE AN INDEBTEDNESS IN THE AMOUNT SHOWN BELOW AND ANY OTHER OBLIGATIONS SECURED THEREBY:

AMOUNT: \$192,223.40  
DATED: APRIL 24, 2002  
TRUSTOR: DENNY JOHNSTON AND SHERILL JOHNSTON, HUSBAND AND WIFE, AS JOINT TENANTS AS TO AN UNDIVIDED 1/3 INTEREST AND DEREK SPIKER AND NICOLE SPIKER, HUSBAND AND WIFE AS TO AN UNDIVIDED 1/3 INTEREST AND MICHAEL SPIKER AND NANCY SPIKER, HUSBAND AND WIFE, AS JOINT TENANTS, AS TO AN UNDIVIDED 1/3 INTEREST AS TENANTS IN COMMON  
TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY, A CALIFORNIA CORPORATION  
BENEFICIARY: ROBERT ALLEN DAVIS, A MARRIED MAN  
RECORDED: APRIL 26, 2002 AS INSTRUMENT NO. 2002-0355530, OF OFFICIAL RECORDS

AN ASSIGNMENT OF THE BENEFICIAL INTEREST UNDER SAID DEED OF TRUST NAMES:

AS ASSIGNEE: ROBERT A. DAVIS AND MARY CLAIRE DAVIS, AS TRUSTEE, OR THE SUCCESSOR TRUSTEE, OF THE DAVIS FAMILY TRUST DATED MAY 29, 2003  
RECORDED: OCTOBER 28, 2003 AS INSTRUMENT NO. 2003-1310281, OF OFFICIAL RECORDS

A NOTICE OF DEFAULT UNDER THE TERMS OF SAID DEED OF TRUST:

EXECUTED BY ACTION FORECLOSURE SERVICES, INC., A CALIFORNIA CORPORATION  
RECORDED OCTOBER 18, 2006 AS INSTRUMENT NO. 06-0739357, OF OFFICIAL RECORDS

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

4. A DEED OF TRUST TO SECURE AN INDEBTEDNESS IN THE AMOUNT SHOWN BELOW AND ANY OTHER OBLIGATIONS SECURED THEREBY:

AMOUNT: \$409,190.00  
DATED: JANUARY 7, 2005  
TRUSTOR: DENNY L. JOHNSTON  
TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY, A CALIFORNIA CORPORATION  
BENEFICIARY: SHERILL LYNN JOHNSTON  
RECORDED: FEBRUARY 3, 2005 AS INSTRUMENT NO. 2005-0092417, OF OFFICIAL RECORDS

5. AN ABSTRACT OF JUDGMENT IN THE AMOUNT SHOWN BELOW AND ANY OTHER AMOUNTS DUE.

ENTERED: 06/23/06  
AMOUNT: \$5,110.44  
DEBTOR: DEREK M. SPIKER  
CREDITOR: TARGET NATIONAL BANK  
COUNTY: SAN DIEGO  
COURT: SUPERIOR  
CASE NO.: IE032007  
RECORDED: AUGUST 4, 2006 AS INSTRUMENT NO. 2006-0554180, OF OFFICIAL RECORDS

6. A TAX LIEN FOR THE AMOUNT SHOWN AND ANY OTHER AMOUNTS DUE, IN FAVOR OF THE TAXING AGENCY SHOWN BELOW:

TAXING AGENCY: STATE OF CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT  
AMOUNT SHOWN: \$51,778.37  
CERTIFICATE OR SERIAL NO.: M 377579  
TAXPAYER: MICHAEL J. SPIKER, INDIVIDUALLY AND/OR AS CEO/PRESIDENT OF, SPIKER ELECTRIC, INC.  
RECORDED: JANUARY 6, 2006 AS INSTRUMENT NO. 2006-0013911, OF OFFICIAL RECORDS

7. A TAX LIEN FOR THE AMOUNT SHOWN AND ANY OTHER AMOUNTS DUE, IN FAVOR OF THE TAXING AGENCY SHOWN BELOW:

TAXING AGENCY: DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE  
AMOUNT SHOWN: \$151,155.77  
CERTIFICATE OR SERIAL NO.: 294549406  
TAXPAYER: MICHAEL J SPIKER  
RECORDED: JUNE 9, 2006 AS INSTRUMENT NO. 2006-0411776, OF OFFICIAL RECORDS

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

8. A TAX LIEN FOR THE AMOUNT SHOWN AND ANY OTHER AMOUNTS DUE, IN FAVOR OF THE TAXING AGENCY SHOWN BELOW:

TAXING AGENCY:	DEPARTMENT OF THE TREASURY – INTERNAL REVENUE SERVICE
AMOUNT SHOWN:	\$151,155.77
CERTIFICATE OR	
SERIAL NO.:	294549506
TAXPAYER:	NANCY S SPIKER
RECORDED:	JUNE 9, 2006 AS INSTRUMENT NO. 2006-0411777, OF OFFICIAL RECORDS

9. ANY BANKRUPTCY PROCEEDINGS THAT ARE NOT DISCLOSED BY THE ACTS THAT WOULD AFFORD NOTICE AS TO SAID LAND, PURSUANT TO TITLE 11, U.S.C. 549(C) OF THE BANKRUPTCY REFORM ACT OF 1978, AS AMENDED.

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

**SCHEDULE C**  
**INFORMATION FOR TRUSTEE**

RELATIVE TO THE DEED OF TRUST SHOWN AS ITEM 3 OF THIS GUARANTEE:

1. TRUSTEE MUST OBSERVE THE REQUIREMENTS OF SECTION 2924B OF THE CALIFORNIA CIVIL CODE AS TO THE NOTICES TO BE SENT TO THE TRUSTORS. IF ADDRESSES OF THE TRUSTORS ARE NOT SHOWN IN SAID TRUST DEED, THIS CODE SECTION STATES THE PROCEDURE TO BE FOLLOWED AS TO NOTICE IN SUCH CASES. NAMES AND ADDRESSES OF TRUSTORS (IF ANY) SHOWN IN SAID DEED OF TRUST.

✓ DENNY JOHNSTON  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ SHERILL JOHNSTON  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ DEREK SPIKER  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ NICOLE SPIKER  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ MICHAEL SPIKER  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

✓ NANCY SPIKER  
2625 LAS PALMAS AVENUE  
ESCONDIDO CA 92025

2. THE NAMES AND ADDRESSES OF PERSONS WHO HAVE RECORDED REQUESTS, AS PROVIDED BY SECTION 2924B(A) AND (D) OF THE CALIFORNIA CIVIL CODE, FOR A COPY OF NOTICE OF DEFAULT AND FOR A COPY OF NOTICE OF SALE ARE:

NONE.

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

3. NAMES AND ADDRESSES OF ADDITIONAL PERSONS WHO, AS PROVIDED BY SECTION 2924B(C)(1) AND (2) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF DEFAULT AND A COPY OF NOTICE OF SALE ARE:

✓ SHERILL LYNNE JOHNSTON  
2625 LAS PALMAS AVENUE  
ESCONDIDO, CA 92025  
REGARDING ITEM NO. 4

✓ DENNY JOHNSTON  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ SHERILL JOHNSTON  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ DEREK SPIKER  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ NICOLE SPIKER  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ MICHAEL SPIKER  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

✓ NANCY SPIKER  
1855 RAINBOW VALLEY BLVD.  
FALLBROOK CA 92028  
REGARDING VESTEE

4. NAMES AND ADDRESSES OF STATE TAXING AGENCIES WHICH, AS PROVIDED BY SECTION 2924B(C)(3) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF SALE ARE:

✓ STATE OF CALIFORNIA  
EMPLOYMENT DEVELOPMENT DEPARTMENT  
LIEN GROUP, MIC 92G  
P.O. BOX 826880  
SACRAMENTO, CALIFORNIA 94280-0001  
REGARDING ITEM NO. 6



CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

5. THE ADDRESSES OF THE INTERNAL REVENUE SERVICE WHICH, AS PROVIDED BY SECTION 2924B(C)(4) OF THE CALIFORNIA CIVIL CODE, ARE ENTITLED TO RECEIVE A COPY OF NOTICE OF SALE ARE:

LAGUNA NIGUEL DISTRICT  
INTERNAL REVENUE SERVICE  
S:C:F:TS:W:AREA 14:GROUP 15  
24000 AVILA ROAD, M/S 5905  
LAGUNA NIGUEL, CA 92677-09608

ATTN: ADVISORY UNIT  
949-360-2364 OR 949-360-2427

C. RIPP 949-389-4140  
U. CLARA 949-389-4132

- AND -

LOS ANGELES DISTRICT/AREA 16

INTERNAL REVENUE SERVICE  
STOP 5021/ADVISORY UNIT 1/RM 4062  
300 N. LOS ANGELES STREET  
LOS ANGELES, CA 90012

ATTN: TECHNICAL SUPPORT TERRITORY MANAGER

G. LAM 213-576-4584  
CONTRACT PERSON: L. A. KIRKWOOD 213-576-4456  
REGARDING ITEM NO. 7 AND 8

6. THE NAMES OF PERSONS AND ADDRESSES DISCLOSED BY THE RECORDS EXAMINED, OTHER THAN THOSE TO WHOM NOTICE IS REQUIRED BY SECTION 2924B OF THE CALIFORNIA CIVIL CODE TO BE DIRECTED, WHO MIGHT BE INTERESTED IN RECEIVING A COPY OF NOTICE OF DEFAULT AND A COPY OF NOTICE OF SALE ARE:

✓ TARGET NATIONAL BANK  
C/O ESKANOS & ADLER  
DONALD R. STEBBINS/JANET L. BROWN  
KURTISS A. JACOBS/JEROME M. YALON 218950/84204  
2325 CLAYTON ROAD,  
CONCORD, CA 94520  
REGARDING ITEM NO. 5

CLTA GUARANTEE  
FORM NO 6282

ORDER NO. 4379835-65  
GUARANTEE NO. 201861

7. CITY IN WHICH SAID LAND IS LOCATED: FALLBROOK  
IF NOT IN CITY, JUDICIAL DISTRICT IN WHICH SAID LAND IS LOCATED:

8. LEGAL PUBLICATIONS:

ESCONDIDO NEWS

PUBLISHED: MONDAY THROUGH FRIDAY

ATTENTION IS CALLED TO SERVICEMEMBERS CIVIL RELIEF ACT OF 1940 AND AMENDMENTS THERETO AND THE MILITARY RESERVIST RELIEF ACT OF 1991 (SEC 800 TO 810, CALIFORNIA MILITARY AND VETERANS CODE) WHICH CONTAIN INHIBITIONS AGAINST THE SALE OF LAND UNDER A DEED OF TRUST IF THE OWNER IS ENTITLED TO THE BENEFITS OF SAID ACTS.

ATTENTION IS CALLED TO THE FEDERAL TAX LIEN ACT OF 1966 WHICH, AMONG OTHER THINGS, PROVIDES FOR THE GIVING OF WRITTEN NOTICE OF SALE IN A SPECIFIED MANNER TO THE SECRETARY OF TREASURY OR HIS DELEGATE AS A REQUIREMENT FOR THE DISCHARGE OR DIVESTMENT OF A FEDERAL TAX LIEN IN A NON-JUDICIAL SALE, AND ESTABLISHES WITH RESPECT TO SUCH A LIEN A RIGHT IN THE UNITED STATES TO REDEEM THE PROPERTY WITHIN A PERIOD OF 120 DAYS FROM THE DATE OF ANY SUCH SALE.

COUNTERSIGNED:



AUTHORIZED SIGNATORY

ORDER NO. 4379835-65

**Privacy Policy Notice  
(as of July 1, 2001)**

We at the North American Title family of companies take your privacy very seriously. We do not share your private information with anyone except as necessary to complete your real property, title insurance and escrow transaction.

**OUR PRIVACY POLICIES AND PRACTICES**

1. Information we collect and sources from which we collect it: We collect nonpublic personal information from you from the following sources:

- \* Information we receive from you on applications or other forms.
- \* Information about your transactions with us, our affiliates or others.
- \* Information from non-affiliated third parties relating to your transaction.

"Nonpublic personal information" is nonpublic information about you that we obtain in connection with providing a product or service to you.

2. What information we disclose and to whom we disclose it: We do not disclose any nonpublic personal information about you to either our affiliates or non-affiliates without your express consent, except as permitted or required by law. We may disclose the nonpublic personal information we collect, as described above, to persons or companies that perform services on our behalf regarding your transaction. "Our affiliates" are companies with which we share common ownership and which offer real property, title insurance, or escrow services.

3. Our security procedures: We restrict access to your nonpublic personal information and only allow disclosures to persons and companies as permitted or required by law to assist in providing products or services to you. We maintain physical, electronic, and procedural safeguards to protect your nonpublic personal information.

4. Your right to access your personal information: You have the right to review your personal information that we record about you. If you wish to review that information, please contact your local North American Title office and give us a reasonable time to make that information available to you. If you believe any information is incorrect, notify us, and if we agree, we will correct it. If we disagree, we will advise you in writing why we disagree.

5. Customer acknowledgement: Your receipt of a copy of the preliminary report, commitment, your policy of insurance, or escrow documents, accompanied by this Notice will constitute your acknowledgement of receipt of this Privacy Policy Notice.

North American Title may also share your information with an insurance institution, credit reporting agency, insurance regulatory authority, law enforcement, other governmental authority, actuary, or other research organization for purposes of detecting or preventing fraud, crimes, or misrepresentations in connection with an insurance or real estate transaction, resolving claims or service disputes, investigating suspected illegal or unlawful activities, or for conducting actuarial or research studies.

## **ATTACHMENT 8**

**Declaration of Mailing**

Trustee's Sale No. 2006623

I, JAMES ALLEN *JA*, declare:

Date: 05/15/2007

Mailing: ~~Sale Mail~~ *Surplus*Page: 1 *Proceed*

That I am an officer, agent, or employee of ACTION FORECLOSURE SERVICES, INC. whose business address is 888 PROSPECT STREET, SUITE 201, LA JOLLA, CA 92037

I am over the age of eighteen years; On 05/15/2007 by Certified mail, enclosed in a sealed envelope with postage fully prepaid, I deposited in the United States Post Office at SAN DIEGO

notices, a true and correct copy of which is hereunto attached and made part hereof, addressed to the following:

Number of Article	Name of Addressee, Street, and Post Office Address	Cert. Fee	R.R. Fee
71006309264040366177	DENNY JOHNSTON C/O TAYLOR PIPELINE, INC. 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366184	DENNY JOHNSTON 44913 SILVER ROSE STREET TEMECULA, CA 92592-5541	\$4.36	\$1.85
71006309264040366191	DEREK SPIKER 1855 RAINBOW VALLEY BLVD FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366207	DEREK SPIKER 19773 RAMONA TRAILS DRIVE RAMONA, CA 92065	\$4.36	\$1.85
71006309264040366214	MICHAEL SPIKER 1855 RAINBOW VALLEY BLVD FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366221	NANCY SPIKER 1855 RAINBOW VALLEY BLVD FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366238	NICOLE SPIKER 19773 RAMONA TRAILS DRIVE RAMONA, CA 92065	\$4.36	\$1.85
71006309264040366245	SHERILL JOHNSTON 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366252	NICOLE SPIKER	\$4.36	\$1.85

\$39.24 \$16.65

Number of Pieces by Sender 9	Number of Pieces Received	Postmaster (Name) Receiving Employee	Mail By (Name) Sending Employee <i>James Allen Jr.</i>
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I certify (or Declare) under penalty of perjury under the laws of the State of CA that the foregoing is true and correct

5-15-2007  
(Date)

(Declarant)

## Declaration of Mailing

Trustee's Sale No. 2006623

I, JAMES ALLEN, J.

, declare:

Date: 05/15/2007

Mailing: ~~Sale Mail~~Page: 2 *Encls*

That I am an officer, agent, or employee of ACTION FORECLOSURE SERVICES, INC.

whose business address is 888 PROSPECT STREET, SUITE 201, LA JOLLA, CA 92037

I am over the age of eighteen years; On 05/15/2007 by Certified mail, enclosed in a sealed envelope with postage fully prepaid, I deposited in the United States Post Office at SAN DIEGO

notices, a true and correct copy of which is hereunto attached and made part hereof, addressed to the following: *Proccs*

Number of Article	Name of Addressee, Street, and Post Office Address	Cert. Fee	R.R. Fee
	C/O THREE D ELECTRIC 1855 RAINBOW VALLEY BLVD FALLBROOK, CA 92028		
71006309264040366269	DENNY JOHNSTON 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366276	SHERILL JOHNSTON <i>000</i> 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366283	DEREK SPIKER 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366290	NICOLE SPIKER 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366306	MICHAEL SPIKER 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366313	NANCY SPIKER 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366320	SHERILL LYNNE JOHNSTON 2625 LAS PALMAS AVENUE ESCONDIDO, CA 92025	\$4.36	\$1.85
71006309264040366337	DENNY JOHNSTON 1855 RAINBOW VALLEY BLVD.	\$4.36	\$1.85
		\$34.88	\$14.80

Number of Pieces by Sender 8	Number of Pieces Received	Postmaster (Name) Receiving Employee	Mail By (Name) Sending Employee <i>James M. Allen J.</i>
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I certify (or Declare) under penalty of perjury under the laws of the State of CA that the foregoing is true and correct

5-15-2007  
(Date)*[Signature]*  
(Declarant)

## Declaration of Mailing

Date: 05/15/2007

Mailing: Sale Mail

Page: 3

Trustee's Sale No. 2006623

I, JAMES ALLEN, Jr., declare:

That I am an officer, agent, or employee of ACTION FORECLOSURE SERVICES, INC. whose business address is 888 PROSPECT STREET, SUITE 201, LA JOLLA, CA 92037

I am over the age of eighteen years; On 05/15/2007 by Certified mail, enclosed in a sealed envelope with postage fully prepaid, I deposited in the United States Post Office at SAN DIEGO notices, a true and correct copy of which is hereunto attached and made part hereof, addressed to the following:

Number of Article	Name of Addressee, Street, and Post Office Address	Cert. Fee	R.R. Fee
71006309264040366344	FALLBROOK, CA 92028  SHERILL JOHNSTON 1855 RAINBOW VALLEY BLVD. FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366351	NICOLE SPIKER 1855 RAINBOW VALLEY BLVD. FALLBROOK, CA 92028	\$4.36	\$1.85
71006309264040366368	TARGET NATIONAL BANK C/O ESKANOS & ADLER DONALD R. STEBBINS/JANET L. BROWN KURTISS A. JACOBS/JEROME M. YALON 218950/84204 2325 CLAYTON ROAD CONCORD, CA 94520	\$4.36	\$1.85
71006309264040366375	STATE OF CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT LIEN GROUP, MIC 92G P.O. BOX 826880 SACRAMENTO, CA 94280-0001	\$4.36	\$1.85
71006309264040366382	LAGUNA NIGUEL DISTRICT INTERNAL REVENUE SERVICE S:C:F:TS:W: AREA 14: GROUP 15 24000 AVILA ROAD, M/S 5905 LAGUNA NIGUEL, CA 92677-09608	\$4.36	\$1.85
71006309264040366399	INTERNAL REVENUE SERVICE STOP 5021/ADVISORY UNIT 1/RM 4062 300 N. LOS ANGELES STREET LOS ANGELES, CA 90012 ATTN: TECHNICAL SUPPORT TERRITORY MGR	\$4.36	\$1.85
		\$26.16	\$11.10

Number of Pieces by Sender 6	Number of Pieces Received	Postmaster (Name) Receiving Employee	Mail By (Name) Sending Employee James Allen, Jr.
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I certify (or Declare) under penalty of perjury under the laws of the State of CA that the foregoing is true and correct

5-15-2007  
(Date)

(Declarant)

## Declaration of Mailing

Trustee's Sale No. 2006623

I, JAMES ALLEN, declare:

Date: 05/15/2007

Mailing: ~~Sale Mail~~Page: 4 *Surplus*

That I am an officer, agent, or employee of ACTION FORECLOSURE SERVICES, INC. whose business address is 888 PROSPECT STREET, SUITE 201, LA JOLLA, CA 92037

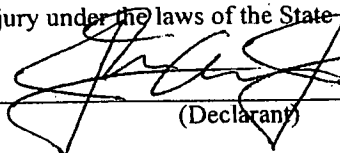
I am over the age of eighteen years; On 05/15/2007 by Certified mail, enclosed in a sealed envelope with postage fully prepaid, I deposited in the United States Post Office at SAN DIEGO

notices, a true and correct copy of which is hereunto attached and made part hereof, addressed to the following: *proceeds*

Number of Article	Name of Addressee, Street, and Post Office Address	Cert. Fee	R.R. Fee
71006309264040366405	INTERNAL REVENUE SERVICE P.O. BOX 145585 STOP 8420G CINCINNATI, OH 45250-5585	\$4.36	\$1.85
71006309264040366412	INDEPENDENT ELECTRIC SUPPLY, INC. C/O CRF SOLUTIONS P.O. BOX 1389 SIMI VALLEY, CA 93062	\$4.36	\$1.85
71006309264040366429	M AND D ELECTRIC INC. A CALIFORNIA CORPORATION 19773 RAMONA TRAILS RAMONA, CA 92065	\$4.36	\$1.85
71006309264040366436	LAGUNA NIGUEL DISTRICT/AREA 16 INTERNAL REVENUE SERVICE 24000 AVILA ROAD, STOP 5905 LAGUNA NIGUEL, CA 92677 ATTN: TECHNICAL SUPPORT TERRITORY MGR ADVISOR: K. RIPP 702-868-5063	\$4.36	\$1.85
71006309264040366443	CHARLES D. NACHAND 447 SOUTH ESCONDIDO BLVD. ESCONDIDO, CA 92025	\$4.36	\$1.85
		\$21.80	\$9.25

Number of Pieces by Sender	Number of Pieces Received	Postmaster (Name) Receiving Employee	Mail By (Name) Sending Employee <i>James Allen, Jr.</i>
5			

I certify (or Declare) under penalty of perjury under the laws of the State of CA that the foregoing is true and correct

5-15-2007  
(Date)  
(Declarant)



**ATTACHMENT 11b**

## ATTACHMENT 11b

Petitioner alleges a potential conflict in the distribution of proceeds pursuant to Civil Code section 2924j(c).

Subsequent to a trustee's sale of real property, the proceeds from the sale must be distributed in accordance with Civil Code section 2924k. Pursuant to that statute any funds remaining after payment of the obligations secured by the deed of trust which is the subject of the trustee's sale are to be paid to satisfy any outstanding obligations secured by junior liens or encumbrances and then "to the trustor or the trustor's successor in interest. In the event the property is sold or transferred to another, to the vested owner of record at the time of the trustee's sale."

Petitioner conducted a Trustee's Sale of the real property located at vacant land in San Diego Cuunty on Julian Road East, Hwy. 78, under Assessors' Parcel Numbers 279-150-22 and 280-140-10 ("Subject Property"). The sale took place on May 4, 2007, under a Deed of Trust dated April 24, 2002, executed by:

Denny Johnston and Sherrill Johnston, husband and wife, as joint tenants as to an undivided 1/3 interest and Derek Spiker and Nicole Spiker, husband and wife, as joint tenants as to an undivided 1/3 interest and Michael Spiker and Nancy Spiker, husband and wife, as joint tenants as to an undivided 1/3 interest, as tenants in common.

The Deed of Trust was recorded on April 26, 2002, as Instrument No. 2002-0355530, in the official records of San Diego, California.

As of the date of the Trustee's Sale, the Subject Property was owned by the trustors, with each couple maintaining a 1/3 interest in the Subject Property. As of the date of the Trustees Sale, the following interests were recorded against the Subject Property, in the order of their priority:

1. A Deed of Trust in favor of Sherill Lynn Johnston, which was executed by Denny L. Johnston and which was recorded on February 3, 2005, as Instrument No. 2005-0092417 in the original amount of \$409,190.00.
2. An Abstract of Judgment in favor of Target National Bank against Derek M. Spiker, which was recorded on August 4, 2006, as Instrument Number 2006-0554180 in the original amount of \$5,110.44.
3. A Tax Lien in favor of the State of California Employment Development Department against Michael J. Spiker, which was recorded on January 6, 2006, as Instrument Number 2006-0013911 in the original amount of \$51,778.37.
4. A Tax Lien in favor of the Department of the Treasury - Internal Revenue Service against Michael J. Spiker, which was recorded on June 9, 2006, as Instrument

Number 2006-0411776 in the original amount of \$151,155.77.

5. A Tax Lien in favor of the Department of the Treasury - Internal Revenue Service against Nancy S. Spiker, which was recorded on June 9, 2006, as Instrument Number 2006-0411777 in the original amount of \$151,155.77.
6. An Abstract of Judgment in favor of Independent Electric Supply, Inc. against M and D Electric Supply Inc., which was recorded on November 13, 2006, as Instrument Number 2006-0804472 in the original amount of \$5,130.00.

The Petitioner received a claim to the excess proceeds of the Trustee's Sale from the Department of Treasury - Internal Revenue Service on or about May 23, 2007, in the amount of \$161,074.41, based on the tax liens against Michael J and Nancy S Spiker described in paragraphs 4 and 5 above. A true and correct copy of the claim and the supporting documents are attached hereto as **Exhibit A** and are incorporated herein by reference.

The Petitioner received a claim to the excess proceeds of the Trustee's Sale from the State of California Employment Development Department on or about June 4, 2007, in the amount of \$51,092.06, based on the tax lien against Michael Spiker described in paragraph 3 above. A true and correct copy of the claim and the supporting documents are attached hereto as **Exhibit B** and are incorporated herein by reference.

The Petitioner received a claim to the excess proceeds of the Trustee's Sale from Sherill Johnston through her attorney Charles D. Nachand on or about June 13, 2007. Sherill Johnston claims the entire amount of surplus proceeds based on the Deed of Trust executed by Denny L. Johnston, which is described in paragraph 1 above. A true and correct copy of the claim and the supporting documents are attached hereto as **Exhibit C** and are incorporated herein by reference.

The Petitioner did not receive a claim to the excess proceeds from Denny L. Johnston, the remaining four trustors under the foreclosing Deed of Trust, Target National Bank, or Independent Electric Supply, Inc.

A conflict exists because Sherill Johnston had a partial ownership interest in the Subject Property at the time she obtained the beneficial interest under the Deed of Trust executed by Denny L. Johnston. Moreover, it is unclear whether the Deed of Trust encumbers Denny Johnson's 1/6 interest in the Subject Property or both Denny and Sherill Johnstons' 1/3 interest in the Subject Property. Finally, Sherills Johnstons' claim asserts she has a right to priority distribution for payments she made in furtherance of the partnership between all trustors regarding the development of the Subject Property. Petitioner is unable to determine the validity of Sherrill Johnston's claim to the entire amount of surplus funds, as it is unclear whether her lien under the Deed of Trust merged with her title.

Based on the foregoing, the Petitioner is unable to disburse the remaining surplus proceeds of the Trustee's Sale to the listed claimants, Trustor(s) and/or to the vested owner of record at the time fo the Trustee's Sale. The Petitioner is unable to determine which party is entitled to the remaining surplus funds.

Exhibit A



**DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
Washington, D.C. 20224**

Name: Action Foreclosure Services, Inc.  
Address: 888 Prospect St., Suite 201  
La Jolla, CA 92037

T/P's Name: Michael J (9814) & Nancy S (3417) Spiker  
Derek M (7606) Spiker

T/P's Address: Vacant Land at Goose Valley Ln., Ramona  
Vacant Land at Rancho Vista Dr., Ramona

Trustee's Sale #: 2006623  
Attn: James M. Allen, Jr. - Chief Financial Officer

A Notice of Federal Tax Lien was filed in San Diego County, CA  
for the tax liabilities listed below: Michael J & Nancy S Spiker

				Statutory Additions to: 05/04/2007		
Type of Tax	Tax Period	Identifying Number	Unpaid Balance	Interest	Penalty	Total
6672	6/30/02	xxx-xx-9814	\$ 16,093.33	\$ 2,018.44	\$ -	\$ 18,111.77
6672	12/31/02	xxx-xx-9814	\$ 16,871.08	\$ 2,060.85	\$ -	\$ 18,931.93
6672	3/31/03	xxx-xx-9814	\$ 30,649.82	\$ 3,743.93	\$ -	\$ 34,393.75
6672	6/30/03	xxx-xx-9814	\$ 30,024.23	\$ 3,667.52	\$ -	\$ 33,691.75
6672	9/30/03	xxx-xx-9814	\$ 29,426.57	\$ 3,594.51	\$ -	\$ 33,021.08
6672	12/31/03	xxx-xx-9814	\$ 6,286.80	\$ 767.94	\$ -	\$ 7,054.74
6672	3/31/04	xxx-xx-9814	\$ 9,807.08	\$ 1,197.96	\$ -	\$ 11,005.04
6672	6/30/04	xxx-xx-9814	\$ 4,334.84	\$ 529.51	\$ -	\$ 4,864.35
6672	6/30/02	xxx-xx-3417	\$ 16,093.33	\$ 2,018.44	\$ -	\$ 18,111.77
6672	12/31/02	xxx-xx-3417	\$ 16,871.08	\$ 2,060.85	\$ -	\$ 18,931.93
6672	3/31/03	xxx-xx-3417	\$ 30,649.82	\$ 3,743.93	\$ -	\$ 34,393.75
6672	6/30/03	xxx-xx-3417	\$ 30,024.23	\$ 3,667.52	\$ -	\$ 33,691.75
6672	9/30/03	xxx-xx-3417	\$ 29,426.57	\$ 3,594.51	\$ -	\$ 33,021.08
6672	12/31/03	xxx-xx-3417	\$ 6,286.80	\$ 767.94	\$ -	\$ 7,054.74
6672	3/31/04	xxx-xx-3417	\$ 9,807.08	\$ 1,197.96	\$ -	\$ 11,005.04
6672	6/30/04	xxx-xx-3417	\$ 4,334.84	\$ 529.51	\$ -	\$ 4,864.35
Total:						\$ -

The following periods have been assessed but liens have not been filed: Derek M. Spiker

				Statutory Additions to: 05/04/2007		
Type of Tax	Tax Period	Identifying Number	Unpaid Balance	Interest	Penalty	Total
6672	6/30/02	xxx-xx-7606	\$ 16,093.33	\$ 1,992.07	\$ -	\$ 18,085.40
6672	12/31/02	xxx-xx-7606	\$ 16,871.08	\$ 2,035.43	\$ -	\$ 18,906.51
6672	3/31/03	xxx-xx-7606	\$ 30,649.82	\$ 3,697.80	\$ -	\$ 34,347.62
6672	6/30/03	xxx-xx-7606	\$ 30,024.23	\$ 3,622.32	\$ -	\$ 33,646.55
6672	9/30/03	xxx-xx-7606	\$ 29,426.57	\$ 3,550.22	\$ -	\$ 32,976.79
6672	12/31/03	xxx-xx-7606	\$ 6,286.80	\$ 758.48	\$ -	\$ 7,045.28
6672	3/31/04	xxx-xx-7606	\$ 9,807.08	\$ 1,183.19	\$ -	\$ 10,990.27
6672	6/30/04	xxx-xx-7606	\$ 4,334.84	\$ 522.97	\$ -	\$ 4,857.81
Total:						

The amount needed to release the lien is \$ 161,074.41 . Total Owed: \_\_\_\_\_

A Certificate of Release of Federal Tax Lien will be issued immediately only if payment is made by: 06/15/2007

1. Cash; or 2. Certified or Cashier's check; or
3. Treasurer's check drawn on a national/ state bank or trust company; or 4. Money Order

If the payment is made in any other form, the release will be delayed for 30 days or until evidence is furnished that the funds have been transferred.

Please make payment payable to the United States Treasury and send it to:  
Internal Revenue Service, Advisory Unit  
24000 Avila Road, W/S. 5905  
Laguna Niguel, CA. 92677  
Attn: D. Chambers

If you have any questions, please contact the person's whose name and telephone number appear at the bottom of this letter.

Signature \_\_\_\_\_ Date: 0523/2007 Title: Group Manager, J. Carr Telephone: 949-389-4124

**Exhibit B**



Arnold Schwarzenegger, Governor

June 4, 2007

Reference 415-0757-5

Action Foreclosure Services  
 888 Prospect Street Suite 201  
 La Jolla, CA 92037  
 Attn: J. M. Allen Jr.

**EXCESS PROCEEDS FROM TRUSTEE SALE**

Trustor	Michael J. Spiker
Trustee Sale #	2006623
Property Address:	N/A
Date Sold	04-26-02

I, the undersigned claimant, request that I be awarded the excess proceeds resulting from the sale of the above referenced property.

I claim my status as a party of interest pursuant to Section 4675 of the California Revenue and Taxation Code.

I am a rightful claimant and base my status and right to file a claim on the following information and documentation:

The Employment Development Department, State of California by its statutory power has created a lien for unpaid taxes against Michael J. Spiker San Diego County California.

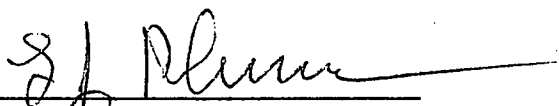
<b>CERTIFICATE</b>	<b>RECORDED</b>	<b>BK-PG</b>	<b>TAXES</b>	<b>INT/PEN</b>	<b>BALANCE</b>
M377579	01-06-06	06-0013911	\$32,465.50	\$18,626.56	\$51,092.06
Assessment Date:	12-03-05	Quarters:	10-01-02 to 12-31-04		

**CLAIM TOTAL: \$51,092.06**



I affirm under penalty that the foregoing is true and correct.

Executed the 4<sup>th</sup> day of June 2007 in Sacramento, California.

  
\_\_\_\_\_  
L. Rebman (916) 464-2064  
Special Procedures Section

Employment Development Department  
800 Capitol Mall Mic 92 H  
Sacramento, CA 94230-6203

To ensure proper application of payments, please remit a copy of this letter.

Exhibit C

**The Law Offices of Charles D. Nachand**

451 South Escondido Boulevard  
Escondido, California 92025-4813  
Telephone: (760) 741-2665  
Facsimile: (760) 741-0396

James M. Allen, Jr.  
Action Foreclosure Services  
888 Prospect Street, Suite 201  
La Jolla, California 92037

June 13, 2007

Re: Loan No. Spiker/Johnston; File No. 2006623      STATEMENT OF CLAIM

Dear Mr. Allen:

This letter with attachments constitutes the claim by Sherill Johnston for the surplus sales proceeds from the foreclosure sale and as referenced in your Notice to Potential Claimant. The following facts pertain to Ms. Johnston's claim for priority distribution of the surplus sales proceeds:

1. Sherill Johnston, Denny Johnston, Michael Spiker, Nancy Spiker, Derek Spiker, and Nicole Spiker were the record owners of fractional interests in the subject property.
2. Those individuals are members in a partnership arrangement created by oral agreement for the purchase and partial development of the property. The partnership has no outside obligations and no debts and no claim to any distribution of the surplus sales proceeds, except as to the requirements on advances identified herein (or as reserved outside of this demand below), and neither Ms. Johnston nor the partnership is liable for any outside or third party individual debts of the owners of the other fractional interests in the subject property.
3. During the ownership of the property, Ms. Johnston personally paid debts/advanced payment for the benefit of and relating to the property, with the knowledge of and at the request of the other partner/owners, which otherwise would have been paid by all of the participants, and were in excess of her personal share thereof relating to the property. She is due a priority distribution in reimbursement of those sums.
4. As part of the development of the property, an additional 20 acres of land were purchased (APN 286-182-19) in order to provide access to the subject property. Once that access had been granted, the 20 acre parcel was sold. As per the above (knowledge, notice and request) Ms. Johnston paid/advanced additional sums relating to that purchase and is entitled to priority reimbursement of that amount.
5. Ms. Johnston has obtained against Denny Johnston a money judgment, note and deed of trust secured by his interest in the subject property, which is more than sufficient to give her all right, title and interest to any distributions of any amount otherwise due to Denny Johnston. The judgment was obtained, and an abstract filed, prior to any other debts, liens or claims against Denny Johnston. Accordingly, because the amount of the judgment/note far exceeds any distribution to which Denny Johnston could be entitled, Ms. Johnson is entitled to direct payment of the one-sixth share of Denny Johnston before any payment to any other creditors of Denny Johnston.

Sherill Johnston claims the following amounts for distribution directly to her from the surplus sales proceeds which you are currently holding:

1. The amount of \$16,720.80 as a priority distribution, before payment of any other liens or debts to any person or entity or an any "share" or interest in the property as reimbursement of the sums she paid on debts of the property in excess of her liability for such debts as a one-sixth owner. Documentation of the amount claimed is attached as Exhibit A hereto.
2. The amount of \$8,420.89 as a priority distribution, before payment of any other liens or debts as reimbursement of the sums she personally paid with regard to the 20 acre parcel which was necessary for obtaining access for the subject property.
3. Her (Sherill Johnston) one-sixth share of the remainder of the surplus sales proceeds, after payment of the amounts listed in paragraphs 1 and 2 above, prior to the payment of any debts, liens or judgments of the other fractional owners.
4. The one-sixth share of Denny Johnston of the remainder of the surplus sales proceeds, after payment of the amounts listed in paragraphs 1 and 2 above, prior to the payment of any debts, liens or judgments of the other fractional owners. A copy of the Abstract of Judgment recorded on May 26, 2005, in the amount of \$409,190.00 is attached. The judgment accrues interest at the legal rate, currently the amount of \$92,749.73, for a total judgment of \$501,939.73. Copies of the Note and Deed of Trust secured by the subject property are attached.

If you intend to distribute the monies otherwise, demand is made that you provide notice in advance thereof in order to allow appropriate action on behalf of Sherill Johnston. The foregoing claims are submitted as accurate obligations and demands but may not represent the entire amount due, which further obligations are not waived to the extent that they exist outside of the scope of this demand. However, they are not made or asserted as to your sale proceeds.

On behalf of Sherill Johnston, this claim is delivered to you at the address in the Notice to Claimant no later than 30 days after the date of said notice.

Very truly yours,

LAW OFFICES OF CHARLES D. NACHAND

  
Charles D. Nachand

CDN/km  
Enclosures

I declare that the foregoing is true and correct to the best of my knowledge. Executed at Escondido, California on June 14, 2007.

  
Sherill Johnston

DO NOT DESTROY THIS NOTE: When paid, this note and the Deed of Trust must be surrendered to the First American Title Insurance Company with request for reconveyance.

## STRAIGHT NOTE

\$ 409,190.00 San Diego, California, January 07, 2005  
On or before January 07, 2010 *latest date,*  
 for value received, Denny L. Johnston promises to pay  
 to Sherill Lynne Johnston  
 \_\_\_\_\_, or order,  
 at Beneficiary's Designation  
 the sum of FOUR HUNDRED NINE THOUSAND ONE HUNDRED AND NINETY DOLLARS AND no/100's Dollars,  
 with interest from \_\_\_\_\_ *until paid, at the rate of* \_\_\_\_\_  
~~per cent per annum~~, payable upon sale of property located at: Julian Rd/E. Hwy 78 including  
Parcel #s 279-150-22; 280-140-10; 286-181-01 and 286-182-19; as more particularly described  
in full legal descriptions attached to this note.

OR: January 07, 2010; whichever occurs first.

Should interest not be so paid, it shall thereafter bear like interest as the principal, but such unpaid interest so compounded shall not exceed an amount equal to simple interest on the unpaid principal at the maximum rate permitted by law. Should default be made in the payment of any installment of interest when due, then the whole sum of principal and interest shall become immediately due and payable at the option of the holder of this note. Should suit be commenced to collect this note or any portion thereof, such sum as the Court may deem reasonable shall be added hereto as attorney's fees. Principal and interest payable in lawful money of the United States of America. This note is secured by a certain DEED OF TRUST to the FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as TRUSTEE.

  
 \_\_\_\_\_  
 Denny L. Johnston

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of

San Diego

} ss.

On

6-14-07

Date

before me,

Kristine A. Merel, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

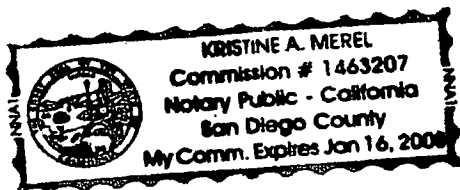
personally appeared

Shaeill

Name(s) of Signer(s)

☐ personally known to me☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document:

Letter to James M. Allen, Jr.

Document Date:

6-13-07

Number of Pages:

6

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

☐ Individual☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Attorney-in-Fact☐ Trustee☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER

Top of thumb here

Order No.  
Escrow No.  
Loan No.

**WHEN RECORDED MAIL TO:**

Sherill Lynne Johnston  
2625 Las Palmas Avenue  
Escondido, CA 92025

THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON FEB 03, 2005  
DOCUMENT NUMBER 2005-0092417  
GREGORY J. SMITH, COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME: 9:58 AM

SPACE ABOVE THIS LINE

**DEED OF TRUST WITH ASSIGNMENT OF RENTS  
(SHORT FORM)**

This DEED OF TRUST, made January 07, 2005, between

DENNY L. JOHNSTON

herein called TRUSTOR,

whose address is 521 Pine Tree Place Escondido, CA 92025  
(Number and Street) (City) (State)

FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, herein called TRUSTEE, and

Sherill Lynne Johnston

, herein called BENEFICIARY,

WITNESSETH: That Trustor grants to Trustee in trust, with power of sale, that property in the County of San Diego, State of California, consisting of 4-Parcels as follows: 279-150-22; 280-140-10; 286-181-01 & 286-182-19, County of SAN DIEGO, State of California, described as:

as more particularly described in full legal descriptions, attached hereto and made a part hereof.

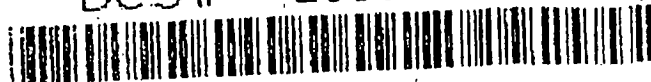
together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits for the purpose of securing (1) payment of the sum of \$ \$ 409,190.00 with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof, (2) the performance of each agreement of Trustor incorporated by reference or contained herein and (3) payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious deed of trust recorded in Orange County August 17, 1964, and in all other counties August 18, 1964, in the book

(continued on reverse side)



Doc # 2005-0443201



MAY 26, 2005 10:04 AM

OFFICIAL RECORDS  
 SAN DIEGO COUNTY RECORDER'S OFFICE  
 GREGORY J. SMITH, COUNTY RECORDER  
 FEES: 13.00  
 PAGES: 2 NOTICES: 1



EJ-001

18  
24  
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address):

TEL NO.:

filed 487-8366

Recording requested by and return to:

Sherill Johnston  
 2625 Las Palmas Avenue  
 Escondido, CA 92025

☐ ATTORNEY FOR ☐ JUDGMENT CREDITOR ☐ ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
 HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827  
 MADGE BRADLEY BLDG., 1409 4TH AVE., SAN DIEGO, CA 92101-3105  
 FAMILY COURT, 1555 6TH AVE., SAN DIEGO, CA 92101-3294

☐ KEARNY MESA BRANCH, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187  
☐ NORTH COUNTY DIVISION, 325 S. MEL ROSE DR., VISTA, CA 92081-6643  
☐ EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941  
☐ RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200  
☐ SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5549

PLAINTIFF: Denny Lee Johnston

DEFENDANT: Sherill Lynne Johnston

ABSTRACT OF JUDGMENT ☐ Amended

CASE NUMBER:

DN 132 150 SDD  
FOR COURT USE ONLY

1. The ☒ judgment creditor ☐ assignee of record applies for an abstract of judgment and represents the following:

a. Judgment debtor's

Name and last known address

Denny Lee Johnston  
 521 Pine Tree Place  
 Escondido, CA 92025

b. Driver's license No. and state: NA331967 CA ☐ Unknownc. Social security No.: 545-02-1358 ☐ Unknown

d. Summons or notice of entry of sister-state judgment was personally served or mailed to (name and address):

e. ☐ Original abstract recorded in this county:

(1) Date:

(2) Instrument No.:

Date: 5/19/05

Sherill Johnston

(TYPE OR PRINT NAME)

f. ☐ Information on additional judgment debtors is shown on page two.

Sherill Johnston  
 (SIGNATURE OF APPLICANT OR ATTORNEY)

2. a. ☒ I certify that the following is a true and correct abstract of the judgment entered in this action.  
 b. ☐ A certified copy of the judgment is attached.

3. Judgment creditor (name and address):

Sherill Lynne Johnston  
 2625 Las Palmas Avenue, Escondido CA 92025

4. Judgment debtor (full name as it appears in judgment):

Denny Lee Johnston

5. a. Judgment entered on (date): 3/9/05

b. Renewal entered on (date):

This abstract issued on (date):

MAY 26 2005



6. Total amount of judgment as entered or last renewed: \$ 409,190.00

7. ☐ An ☐ execution lien ☒ attachment lien is endorsed on the judgment as follows:

a. Amount: \$ 409,190.00

b. In favor of (name and address):

Sherill Lynne Johnston  
 2625 Las Palmas Avenue  
 Escondido, CA 92025

8. A stay of enforcement has

a. ☒ not been ordered by the court.  
 b. ☐ been ordered by the court effective until (date):

9. ☐ This judgment is an installment judgment.

Clerk, by

T. ROBERTS

Deputy

ABSTRACT OF JUDGMENT (CIVIL)



## **ATTACHMENT 13**

1 JOHN D. DUNCAN (CA SBN 179560)  
PETER J. SALMON (CA SBN 174386)  
2 LAUREL I. HANDLEY (CA SBN 231249)  
PITE DUNCAN, LLP  
3 525 E. Main Street  
P.O. Box 12289  
4 El Cajon, CA 92022-2289  
Telephone: (619) 590-1300  
5 Facsimile: (619) 590-1385

6 Attorneys for Petitioner Action Foreclosure Services, Inc.

7  
8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SAN DIEGO - NORTH COUNTY

10 IN RE:

Case No.:

11 VACANT LAND LOCATED IN SAN  
12 DIEGO COUNTY APNS 279-150-22 AND  
280-140-10

PROOF OF SERVICE

13  
14  
15 I, the undersigned, declare: I am, and was at the time of service of the papers herein referred  
to, over the age of 18 years, and not a party to this action. My business address is 525 East Main  
16 Street, El Cajon, California 92020.

17 On December 12, 2007, I served the following documents:

- 18 1. PETITION AND DECLARATION REGARDING UNRESOLVED CLAIMS  
AND DEPOSIT OF UNDISTRIBUTED SURPLUS PROCEEDS OF  
TRUSTEE'S SALE  
19  
20 2. NOTICE OF PETITION TO SUPERIOR COURT TO DEPOSIT SURPLUS  
FUNDS  
21  
22 3. CIVIL CASE COVER SHEET  
23  
24 4. ORDER TO DEPOSIT SURPLUS FUNDS

25 on the parties in this action addressed as follows:

26 Denny Johnston  
C/O Taylor Pipeline, Inc.  
2625 Las Palmas Avenue  
Escondido, CA 92025

Denny Johnston  
44913 Silver Rose Street  
Temecula, CA 92592

27 Derek Spiker  
1855 Rainbow Valley Blvd.  
28 Fallbrook, CA 92028

Derek Spiker  
19773 Ramona Trails Drive  
Ramona, CA 92065

1 Michael Spiker 1855 Rainbow Valley Blvd. 2 Fallbrook, CA 92028	Nancy Spiker 1855 Rainbow Valley Blvd. Fallbrook, CA 92028
3 Nicole Spiker 19773 Ramona Trails Drive 4 Ramona, CA 92065	Sherill Johnston 2625 Las Palmas Avenue Escondido, CA 92025
5 Nicole Spiker C/O Three D Electric 6 1855 Rainbow Valley Blvd Fallbrook, CA 92028	Denny Johnston 2625 Las Palmas Avenue Escondido, CA 92025
7 8 Derek Spiker 2625 Las Palmas Avenue Escondido, CA 92025	Nicole Spiker 2625 Las Palmas Avenue Escondido, CA 92025
9 10 Michael Spiker 2625 Las Palmas Avenue Escondido, CA 92025	Nancy Spiker 2625 Las Palmas Avenue Escondido, CA 92025
11 12 Sherill Lynne Johnston 2625 Las Palmas Avenue Escondido, CA 92025	Denny Johnston 1855 Rainbow Valley Blvd. Fallbrook, CA 92028
13 14 Sherill Johnston 1855 Rainbow Valley Blvd. Fallbrook, CA 92028	Nicole Spiker 1855 Rainbow Valley Blvd. Fallbrook, CA 92028
15 16 Target National Bank C/O Eskanos & Adler Donal R. Stebbins/Janet L. Brown 17 Kurtiss A. Jacobs/Jerome M. Yalon 218950/84204 18 2325 Clayton Road Concord, CA 94520	State of California Employment Development Department Lien Group, MIC 92G P.O. Box 826880 Sacramento, CA 94280-0001
19 20 Laguna Niguel District Internal Revenue Service S:C:F:TS:W:AREA 14:GROUP 15 21 24000 Avila Road, M/S 5905 Laguna Niguel, CA 92677	Internal Revenue Service Stop 5021/ Advisory Unit 1/RM 4062 300 N. Los Angeles Street Los Angeles, CA 90012 Attn: Technical Support Territory Mgr.
22 23 Internal Revenue Service Post Office Box 145585 Stop 8420G Cincinnati, OH 45250	Independent Electric Supply, Inc. C/O CRF Solutions Post Office Box 1389 Simi Valley, CA 93062
24 25 M and D Electric Inc. A California Corporation 26 19773 Ramona Trails Ramona, CA 92065	Laguna Niguel District/Area 16 Internal Revenue Service 24000 Avila Road, Stop 5905 Laguna Niguel, CA 92677 Attn: Technical Support Territory Mgr Advisor: K. Ripp 702-868-5063
27 28 Charles D. Nachand The Law Offices of Charles D. Nachand 447 South Escondido Blvd. Escondido, CA 92025	

1 Charles D. Nachand  
2 The Law Offices of Charles D. Nachand  
3 451 South Escondido Boulevard  
4 Escondido, CA 92025-4813

Employment Development Department  
800 Capitol Mall Mic 92 H  
Sacramento, CA 94230

5 X **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above. I am  
6 readily familiar with the firm's practice of collection and processing correspondence for  
7 mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course  
8 of business. I am aware that on motion of party served, service is presumed invalid if postal  
9 cancellation date or postage meter date is more than one day after date of deposit for mailing  
10 in affidavit.

11        **BY CERTIFIED MAIL:** I placed a true copy in a sealed envelope addressed as indicated  
12 above via certified mail, return receipt requested.

13        **BY FACSIMILE:** I personally sent to the addressee's facsimile number a true copy of the  
14 above-described document(s). I verified transmission with a confirmation printed out by the  
15 facsimile machine used. Thereafter, I placed a true copy in a sealed envelope addressed and  
16 mailed as indicated above.

17        **BY FEDERAL EXPRESS:** I placed a true copy in a sealed Federal Express envelope  
18 addressed as indicated above. I am familiar with the firm's practice of collection and  
19 processing correspondence for Federal Express delivery and that the documents served are  
20 deposited with Federal Express this date for overnight delivery.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing  
22 is true and correct.

23 Executed on December 12, 2007, at El Cajon, California.

24   
25 ROSALYNN B. SALARDA  
26  
27  
28

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) 202-514-9668

Lauren Castaldi, Esq., U.S. Department of Justice  
P.O. Box 683, Ben Franklin Station, Washington, D.C. 20044-0683

## DEFENDANTS

In Re: Vacant Land Located in San Diego County  
APNS: 279-150-22 and 280-140-10

County of Residence of First Listed Defendant San Diego  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED. BY KUH DEPUTY

Attorneys (If Known)

08 CV 0455 W BLM

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF  
Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4  
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5  
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Removal under U.S.C. Sections 1444

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

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SIGNATURE OF ATTORNEY OF RECORD

Lauren Castaldi, by Tom Stahl, Chief, Civil Division  
U.S. Attorneys Office

Tom Stahl

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